



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

November 13, 1991
AO-91-23

Steven C. Roche, Chairman
Citizens for Joe Malone
3 University Office Park
95 Sawyer Road, Suite 400
Waltham, MA 02108

Re: Payment of Brochure Costs

Dear Mr. Roche:

This letter is in response to your September 4, 1991, letter requesting an advisory opinion. You have asked if Citizens for Joe Malone ("Citizens"), Treasurer Malone's political committee, may pay for a reprinting and distribution of Treasurer Malone's Fiscal Update ("Update"), a copy of which is attached hereto. For the reasons set forth below such a payment is permissible under M.G.L. c.55

You have stated that the Update is a quarterly report prepared and distributed by the Office of the State Treasurer. The Update is a public document available without charge to the general public. It is not copyright protected.

You intend to purchase the reprinted copies from the same vendor that printed the original report for the Treasurer's office. The reprinted version will be identical to the original except that it will state, "This reprint of the Fiscal Update was paid for by Citizens . . . (address omitted)." Reprints will be sent to campaign committee donors and distributed to other interested parties.

M.G.L. c.55, s.6 provides, in pertinent part, that:

A political committee organized or operating on behalf of a candidate for the office of . . . treasurer and receiver general . . . may receive, pay and expend money or other things of value for reasonable and necessary expenses directly related to the campaign of such candidate but shall not make any expenditure that is primarily for the candidate's or any other person's personal use . . .¹

Although Treasurer Malone will not be up for reelection until 1994 should he seek another term he is, as a practical matter, a candidate as well as an office holder. Indeed, the campaign finance laws define candidate, in part, as an "individual [who] holds elective public office . . . and . . . has . . . received any money or anything of value . . ." See M.G.L. c.55, s.1. Consequently, it is reasonable and necessary² for Treasurer Malone and his political committee to take steps now to promote his reelection in 1994. Such steps could include, for example, hosting and attending fund-raising events, maintaining and improving his name with the Commonwealth's voters and maintaining contact with key supporters. The attached brochure is clearly an appropriate vehicle for achieving the latter goal. See also 970 CMR 2.05(2)(a)(d) and (p).

As noted above, Citizens will purchase reprints from the same vendor which originally printed the report. You should be aware that if this vendor is a business corporation, including a professional corporation, subject to the prohibition of M.G.L. c.55, s.8, it may not provide "Citizens for Joe Malone" with any discount or rebate or other goods or services not otherwise available to any other candidate or member of the general public. See Op. Atty. Gen., November 6, 1980.

For the reasons set forth above, it is the opinion of this Office that expenditures by Citizens to pay for the reprinting

1. The term "personal use" as employed in the context of M.G.L. c.55, s.6 and the regulations is a term of art which includes any non-political use such as business, governmental, legislative, family and social use. See AO-91-06.

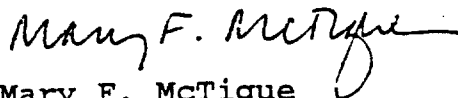
2. The word "necessary" must be interpreted in the context in which it is used since it is susceptible to a variety of different meanings. For example, it "may express mere convenience or that which is indispensable or an absolute physical necessity . . . or it may mean something reasonably useful and proper . . ." See Black's Law Dictionary, Abridged Fifth Edition (1983), page 536. This Office interprets the word necessary in the context of M.G.L. c.55, s.6 to mean "reasonably useful and proper." An expenditure is not required to be indispensable since such an interpretation would unduly restrict the activities of political committees without a sufficiently compelling state interest.

and distribution of the Update would be permitted under M.G.L. c.55 and the regulations promulgated thereto.³

This opinion is based solely on the representations made in your letter and has been rendered solely in the context of M.G.L. c.55. It does not address legal issues that may arise under M.G.L. c.268A, the conflict-of-interest law. Such questions should be directed to the State Ethics Commission.

Please do not hesitate to contact this Office if you have any additional questions regarding campaign finance matters.

Very truly yours,



Mary F. McTigue
Director

Enclosure

3. We would caution you regarding the prohibition against the use of public funds for political purposes. The first issue of Fiscal Update does not promote or oppose a candidate, party or ballot question. Therefore, it does not violate the campaign finance laws. However, this advisory opinion is not intended to serve as a blanket approval of future editions, nor will this Office review and/or approve future editions. If any publicly-funded publication were to promote or oppose a candidate's nomination or election or a ballot question through its content, style, tone or timing, it would be in violation of M.G.L. c.55, ss.7 and 22A. See Anderson v. City of Boston, 376 Mass. 178 (1978).